

The present invention relates to a surgical instrument file system which can simply and exactly prepare or assemble surgical instruments sets used for various operations performed in hospitals in response to the surgical procedure (type of operation) performed. More particularly, it relates to a surgical instrument file system in which an optically readable code mark such as a bar code is attached to the surgical instrument. A surgical instrument list for the surgical procedure is stored in a computer. The bar code or other symbol is read with a reader, and input into the computer by which surgical instrument is compared with the surgical instrument list stored in the computer.

(emphasis added; Honda, Column 1, Lines 9-20).

Paragraph d of Claim 1 comprises the limitation of “entering information into the database that identifies each hospital procedure in which each instrument has been used.”

(Emphasis added). Paragraph d of Claim 13 comprises the limitation of “entering information into the database that identifies the serial number of each instrument in each hospital procedure in which it has been used.” (Emphasis added). This same limitation is also found at Paragraph e of Claim 17.

The above quoted disclosure from Column 1 of Honda is directed toward a database which allows correlation between an instrument and the surgical procedures for which it may be suitably employed. The above-quoted limitations from Claims 1, 13, and 17 are not disclosed in Honda. It is well established that a prior art reference cannot anticipate a claimed invention unless the prior art reference discloses each and every element of the claimed invention, arranged as in the claims. *Lindemann Machinefabrik Gmbh v. American Hoist & Derrick Co.*, 730 Fed. 2d 1452, 1458 (Fed Cir.1984). Thus, Honda does not anticipate Claims 1-20, as a matter of law.

In the first paragraph on page 4, the Office Action states that Figure 7, Column 5, Lines 58-65, and Column 6, Lines 44-51 of Honda “disclose a maintenance schedule for each

instrument.” Applicants respectfully disagree with this characterization of the disclosure found at these locations in Honda.

Webster’s Ninth New Collegiate Dictionary defines “schedule” as “a procedural plan that indicates the time and sequence of each operation” (Exhibit A, bracketed text). This is the context in which the word “schedule” is used in the phrase “maintenance schedule” in Applicants’ Claims. The term “schedule” in Applicants’ Claims should be given its customary meaning.

Figure 7 of Honda discloses various types of sterilization methods as a function of the identity of the instrument set, and further discloses the message “perform packaging and sterilize as shown below.” There is no disclosure in Figure 7 regarding a “maintenance schedule”. To the extent that sterilization is a form of maintenance, Honda discloses what type of sterilization to perform on a given category of instrument; however, Honda does not disclose a “schedule” for such maintenance.

Claims 6-8 all comprise the limitation of “inputting a maintenance schedule for each instrument into the database.” That limitation is not disclosed at Column 5, lines 58-65, and Column 6, Lines 44-51 of Honda.

The references cited in the first paragraph on page 4 of the Office Action, fail to disclose a “maintenance schedule”, as expressly claimed in Claims 6-8. Paragraph e of Claim 13 also comprises the limitation of “inputting a maintenance schedule for each instrument into the database.” Paragraph f of Claim 17 comprises the same limitation. Thus, for these additional reasons, Claims 6-8 and 13-20 are not anticipated by Honda.